

REMARKS

Claim 1 is pending.

In the Office Action mailed July 7, 2008, claim 1 has been rejected under 35 U.S.C. § 112, second paragraph, and 35 U.S.C. § 101.

By this Amendment, Applicants cancelled claim 1 and added new claims 2-4. Applicants respectfully request reconsideration and allowance of the pending claims in view of the amendments and remarks set forth below.

I. NEW CLAIMS ARE SUPPORTED IN THE APPLICATION AS FILED

New claim 2 recites:

2. (New) A method of enhancing activity of an active pharmaceutical substance upon administration to a subject in need thereof, said method comprising combining said active pharmaceutical substance with a homeopathically activated form of said substance.

Applicants are fully aware that the newly added limitation “homeopathically activated” is not set forth in the application in *ipsis verbis*. For this reason and to advance the prosecution on the merits, Applicants wish to address the issue preemptively and directly for Examiner’s consideration.

Applicants note that *haec verbis* disclosure is not a pre-requisite for complying with the written description requirement. *See* MPEP § 2163. I. B. The description may be express, implicit, or inherent. *Id.* The key to evaluating compliance with the written description requirement is a determination whether the applicant had possession of the claimed invention based on the content of the application as a whole. *See* MPEP § 2163. II. The outcome of the evaluation depends on whether “the description clearly allows persons of ordinary skill in the art to recognize that he or she invented what is claimed.” *See* MPEP § 2163.01, *citing In re Gostelli*, 872 F.2d 1008, 1012 (Fed. Cir. 1989).

The specification describes: a) preparation of “activated” or “potentiated” form of active substances by homeopathic technology (*e.g.*, at page 1, last paragraph, to page 2, first paragraph), b) administration of the claimed combination to patients (*e.g.*, Example 4), and c) biological effects of such administration in mice (*e.g.*, Example 5). In combination, these disclosures clearly place “homeopathically activated form” in possession of the inventors as of the filing date of the

above-identified application.

Claim 4 that recites the ratios of the components of combination is directly supported at page 2, second paragraph.

Therefore, Applicants respectfully submit that new claims 2-4 are fully supported in the application as filed.

II. REJECTIONS UNDER 35 USC 112 AND 101

The Examiner has rejected claim 1 due to improper form of the claim as filed. IN particular, the Examiner objected to lack of positive step recitation. Applicants cancelled claim 1 and added new claims 2-4. New claim 2 addresses the Examiner's rejections.

Applicants respectfully assert that the rejections had been obviated.

III. IDS ISSUES

Applicants took note of Examiner's objection to the form of previously submitted Information Disclosure Statement. It is Applicants' understanding that the objection is not part of the Office Action *per se*. Applicants will address the issue in due course.

The Applicants believe the rejections had been met and application is in condition for allowance. If the Examiner has any further concerns, the Examiner is respectfully requested to telephone the undersigned attorney. The Examiner is authorized to deduct additional fees believed due from our Deposit Account No. 50-4771.

Respectfully submitted,

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